



## ***Frequently Asked Questions About:***

### **5-year Review for the Northern Spotted Owl and Marbled Murrelet**

#### **Q – What action is the Fish and Wildlife Service taking?**

A – The Service will undertake 5-year reviews for the northern spotted owl and the marbled murrelet in connection with the settlement of two lawsuits: *Western Council of Industrial Workers, et al v. Secretary of the Interior* (regarding the northern spotted owl), and *American Forest Resources Council et al v. Secretary of Interior* (regarding the marbled murrelet). The settlement agreements were approved April 22, 2003, by the U.S. District Court in Oregon. Under the Endangered Species Act, the Fish and Wildlife Service is required to conduct a review of listed species at least once every 5 years.

#### **Q – What is a 5-year review?**

A – A 5-year review is an assessment of each listed species to determine whether its status has changed or remains the same as it was at the time of listing. A 5-year review considers all new available information concerning the population status of each species and the threats to it. The review considers the best scientific and commercial information that has become available since the original listing determination, such as:

- species biology including but not limited to population trends, distribution, abundance, demographics and genetics;
- habitat conditions including but not limited to amount, distribution and suitability;
- conservation measures that have been implemented that benefit the species;
- threat status and trends;
- other new information, data, or corrections including but not limited to changes in taxonomy or nomenclature, identification of erroneous information contained in the List of Endangered and Threatened Wildlife and Plants; and improved analytical methods.

**Q – Why is the Service doing 5-year reviews for the northern spotted owl and marbled murrelet now?**

A – The northern spotted owl and the marbled murrelet were listed in 1990 and 1992, respectively. Comprehensive research and monitoring programs for both of these species have been carried out and are ongoing on both Federal and non-Federal (state, private, tribal) lands. As a result, there has been a large body of new information available. Although this information has been made public throughout the past decade, and the Service has continued to use the best available information under its ESA responsibilities, this information has not been fully evaluated under the ESA's 5-year review requirement.

The Service has agreed to initiate the 5-year review for these two species at this time as a result of settlement negotiations on two recent lawsuits: *Western Council of Industrial Workers, et al v. Secretary of the Interior* (regarding the northern spotted owl), and *American Forest Resources Council et al v. Secretary of Interior* (regarding the marbled murrelet).

**Q– Does the settlement agreement lessen protections for the northern spotted owl and the marbled murrelet?**

A– No. All of the existing protections for the northern spotted owl and the marbled murrelet will remain in place. If any changes are determined to be necessary after the review is completed, they will be made only after a formal rule-making process that includes public review and comment.

**Q– Does the settlement agreement require changes in the way the Federal government manages old growth forests?**

A– No. A 5-year review is simply an assessment of a listed species to determine whether its status should change or remain the same. Federal agencies manage old growth forests under the auspices of the Northwest Forest Plan, which provides very explicit and comprehensive conservation measures under its Standards and Guidelines (see <http://www.reo.gov/2001/aboutNFP.htm>)

**Q – What will the northern spotted owl and marbled murrelet 5-year reviews entail?**

A – The reviews will consider information that has become available since the original listing determinations, such as population and demographic trend data; studies of dispersal and habitat use; genetics and species competition investigations; surveys of habitat amount, quality, and distribution; adequacy of existing regulatory mechanisms; and management and conservation planning information.

The reviews also will assess: a) whether new information suggests that the species' population is increasing, declining, or stable; b) whether existing threats are increasing, the same, reduced, or eliminated; c) if there are any new threats; and d) if any new information or analysis calls into

question any of the conclusions in the original listing determination as to the species' classification. In addition, any Distinct Population Segment of a vertebrate taxon that was listed prior to the implementation of the 1996 DPS policy will be re-evaluated on a case-by-case basis as recommendations are made to change the listing status for that DPS. The appropriate application of the policy will also be considered in the 5-year reviews of the status of listed species required by the ESA.

**Q – Who is responsible for doing a 5-year review?**

A – The Secretary of Interior and the Secretary of Commerce are ultimately responsible for conducting the 5-year reviews of listed species. This responsibility has been stepped down to the U.S. Fish and Wildlife Service and NOAA Fisheries to assess the species for which they have jurisdiction.

**Q – When will the 5-year reviews of the northern spotted owl and the marbled murrelet be completed?**

A – The reviews are scheduled to be completed by April 30, 2004, according to settlement agreement amendments filed June 30, 2003, with the U.S. District Court in Portland, Oregon. The original settlement agreements called for the reviews to be completed by December 31, 2003.

**Q – Why was the completion date extended?**

A – To give the public additional time to provide information for these reviews and to allow sufficient time for thorough, comprehensive reviews.

**Q – What is a Distinct Population Segment?**

A – A Distinct Population Segment (DPS) is a population that makes up a portion of a species' or subspecies' population or range. For a population to be listed under the ESA as a Distinct Population Segment, three elements are considered: (1) the discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to the species to which it belongs; and (3) the population segment's conservation status in relation to the ESA's standards for listing (i.e., is the population segment endangered or threatened?).

**Q – What is the outcome of a 5-year review?**

A – The Service will determine whether or not a change is warranted in the Federal classification of the northern spotted owl or the marbled murrelet, such as a change in classification from threatened to endangered, a determination that either species no longer needs protection and should be delisted, or a determination that the classification should remain the same. Such a determination would not automatically result in a change in classification; this would require a

separate formal rule-making process.

If the Service determines that a change in classification is warranted, the agency may propose to reclassify or delist a species. If the agency does propose a change, it would go through a formal rule-making process, including public review and comment, as defined in section 4(a) of the Endangered Species Act. No change in classification would occur until the completion of that process.

**Q – How does the Service determine whether a species is endangered or threatened?**

**A –** Under the ESA, the term “endangered species” means any species that is in danger of extinction throughout all or a significant portion of its range. The term “threatened species” means any species that is at risk of becoming an endangered species within the foreseeable future throughout all or a significant portion of its range.

Section 4(a)(1) of the ESA establishes that we determine whether a species is endangered or threatened based on one or more of the following five factors:

- (a) The present or threatened destruction, modification, or curtailment of its habitat or range;
- (b) Overutilization for commercial, recreational, scientific, or educational purposes;
- (c) Disease or predation;
- (d) The inadequacy of existing regulatory mechanisms; or
- (e) Other natural or manmade factors affecting its continued existence.

The Service’s assessment of these factors is required, under section 4(b)(1) of the ESA, to be based on the best scientific and commercial data available.